


5. Figure 14 – system comprising four wheel speed sensors, first and second analyzer units, and a decision unit comprising a signal change determination section to process output combination section signals.

Applicants respectfully traverse this restriction requirement. Although the Examiner contends that these species are “patentably distinct”, he has provided absolutely no evidence to support that claim: no arguments are given and no evidence is given that the species would be classified separately in the USPTO classification system – in fact, given the common elements between the five species, it seems very unlikely that they would be classified separately. MPEP §803 requires that the Examiner support the basis for a restriction requirement – that has not been done here.

The Examiner does make a statement that considering the invention as a whole would make it “necessary to search for one of the inventions in a manner that is not likely to result in finding art pertinent to the other invention...” (see Office Action, middle of page 3). Again, there is nothing provided to support this assertion and the facts of this case make it very unlikely that the assertion is correct. For example, a search of species 5 (which includes four wheel speed sensors, two analyzer units and combination section signals) would clearly encompass species 1 (which has one wheel speed sensor and an analyzer unit), species 2 (which has four wheel speed sensors, four analyzer units, and a combination section), species 3 (which includes a wheel speed sensor, two analyzer units and a decision unit) and species 4 (which includes four wheel speed sensors, two analyzer units and combination section signals). It appears that the searches for all five species overlap almost entirely. The five species all include the same components, just in different numbers, with slight differences in how they are combined. Thus, all five species can be considered together without placing an undue burden on the Examiner and, therefore, they should be considered together under MPEP §803. Accordingly, it is respectfully requested that the restriction requirement be withdrawn.

In the event it is maintained, Applicant elects species 5 (figure 14). Claims 1-35 appear to read on this species.

Respectfully Submitted,
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